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SUBJECT: OSLO NEC - SUPREME COURT HEARING CONCLUDES, OUTCOME
UNCERTAIN

REF: A) Oslo 110
B) 08 Oslo 501 and previous

11. (SBU) Summary: From May 12 - 14, opponents of the NEC sparred with GON lawyers before Norway's Supreme Court, contending that the Oslo City Council's rezoning decision in favor of the NEC should be overturned. After three appeals spanning the period 2006 - 08, all of them unsuccessful, our opponents tried a new tack: arguing that the City had devoted insufficient consideration to alternative NEC sites prior to voting. The GON showed that, in fact, the embassy had given careful consideration to over two dozen properties, but it is neither common nor practical to require a formal study of alternative locations prior to voting on a rezoning proposal. Moreover, GON attorneys pointed out that the City Council had explicitly rejected a proposal to investigate alternative properties more thoroughly. We are guardedly optimistic the high court will rule in our favor, putting an end to four years of ongoing litigation. End Summary.

12. (U) A five-judge panel of randomly selected supreme court judges received written testimony and heard oral arguments by opposing attorneys from May 12 - 14. Our opponents' lawyer, in asking the court to overturn the Oslo City Council's decision in December 2005 to rezone the NEC site, once again raised the issue of a lack of a formal environmental assessment prior to the vote four years ago. He highlighted the existence of a suitable NEC site in Nordby, a forested plot of land several miles west of the Oslo city limits, arguing that the City Council had paid inadequate attention to alternative locations. At times the lawyer all but accused the Embassy of having misled the city.

13. (U) Attorneys representing the GON reminded the court that all of the information required for a formal environmental assessment had already been discussed and analyzed. Included in their written testimony were numerous documents compiled at post and by OBO, showing that several dozen property sites had been properly evaluated; Huseby had emerged as the superior site by virtue of its size and location closer to GON ministries than any other property under consideration. Other documents showed that embassy properties around the world of at least 10 acres were clearly the norm, with the exception of several small NEC's located on remote Pacific island nations.

14. (U) The press corps was present during most of the hearing. The newspaper of record, Aftenposten, published an objective article documenting the embassy's decade-long struggle to relocate. Two neighborhood papers featured articles that reiterated our opponents' point of view, questioning why we needed 10 acres.

15. (SBU) The GON attorney, Gunnar Haereid, was hesitant to predict the outcome of the case. He noted that the opposition was wise to avoid any further discussion of security concerns or the loss of green space, neither issue having elicited any sympathy from the lower courts. Haereid acknowledged that the consideration of alternative locations was a vulnerable point, but noted in court that the Oslo City Council had voted down a proposal to investigate other possible NEC sites five months before it approved our rezoning. In the end, he said, the high court would base its ruling on one of two things: (1) the alleged requirement to include an

analysis of alternative locations in an environmental assessment; or (2) the precedent for sustaining the legal, political decision, backed by thorough analysis, the Oslo City Council made four years ago in rezoning the NEC site.

¶6. (SBU) Our legal advisor was somewhat more optimistic, giving us nearly two-to-one odds of victory. He opined that there was virtually no new information discussed before the high court, other than the existence of the Nordby site and discussion of the proposed London NEC site, which is smaller than ten acres. He believed that neither factor would have any material impact on the Supreme Court's decision.

¶7. (SBU) We are guardedly optimistic that the high court will rule in our favor when it announces its decision, some time before June 30.

WHITNEY